

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

THE FARMWORKER ASSOCIATION OF
FLORIDA INC., *et al.*,

Plaintiffs,

v.

RONALD D. DESANTIS, in his official capacity as
Governor of the State of Florida, *et al.*,

Defendants.

Case No. 23-CV-22655-RKA

**PLAINTIFFS' SECOND MOTION FOR PRELIMINARY INJUNCTION
AND REQUEST FOR HEARING**

Pursuant to Federal Rule of Civil Procedure 65(a), Plaintiffs hereby move for a preliminary injunction enjoining Defendants from enforcing Ch. 2023-40, § 10, at 11, Laws of Fla. (amending § 787.07, Fla. Stat. (2022)) (“Section 10”), submit a memorandum of law in support of this motion, request a hearing, and state the following:

1. On May 10, 2023, the Governor of Florida, Ronald DeSantis, signed SB 1718 into law and created a new crime: transportation of an ill-defined category of immigrants across state lines into Florida. *See* ECF No. 1-1.

2. Section 10 contravenes two Eleventh Circuit decisions in which similar statutes in Alabama and Georgia were deemed preempted by the federal migrant smuggling statute, 8 USC § 1324. *See United States v. Alabama*, 691 F.3d 1269, 1288 (11th Cir. 2012); *Georgia Latino All. for Hum. Rights v. Governor of Georgia*, 691 F.3d 1250, 1265–66 (11th Cir. 2012).

3. In addition to being preempted by federal law, Section 10 is unconstitutionally

void for vagueness. *See United States v. Williams*, 553 U.S. 285, 306 (2008); *United States v. Batchelder*, 442 U.S. 114, 123 (1979).

4. Plaintiffs respectfully request this Court enjoin Section 10 because this section is preempted by federal law in violation of the Supremacy Clause of Article VI, Section 2, of the U.S. Constitution; and because Section 10 is unconstitutionally vague.¹

5. A preliminary injunction is warranted if the moving party establishes the following: “(1) substantial likelihood of success on the merits; (2) irreparable injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest.” *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998).

6. As detailed in Plaintiffs’ memorandum in support of this motion, Plaintiffs meet the standard for a preliminary injunction.

7. Undersigned counsel requests that the Court set this motion for a hearing as soon as possible in light of the imminent harm Plaintiffs face.

WHEREFORE, for the reasons set forth herein and in the accompanying memorandum of law, Plaintiffs respectfully request this Court enjoin Section 10 of SB 1718 in its entirety.

Dated: August 24, 2023

Respectfully submitted,

/s/ Felix Montanez
On behalf of Attorneys for Plaintiffs

¹ Plaintiffs are filing this second motion after the first motion was denied without prejudice, as proof of service on all Defendants had not been filed yet. *See* ECF No. 25.

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CERTIFICATE OF SERVICE

I hereby certify on August 24, 2023, I electronically filed the foregoing with the Clerk of Court via the CM/ECF system. I further certify that a true and correct copy of the foregoing and all supporting attachments were served on all parties of record by e-mail, and U.S. Mail as described in the Service List below on August 24, 2023.

s/Felix Montañez_____

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